December 5, 2011

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Re: Request for Adjustment to the Medical Loss Ratio (MLR) for the State of North Carolina
Response to Gary Cohen's Letter of October 18, 2011

Dear Secretary Sebelius:

This letter along with the enclosed documentation represents my response to questions posed in Acting Director Gary Cohen's letter of October 18, 2011 relating to North Carolina's request for adjustment to the Medical Loss Ratio (MLR) in the individual health insurance market.

Copied below is each question posed by Mr. Cohen with North Carolina's response directly following. Additionally, please note the Additional Information Section which includes new information relating to the withdrawal of two insurers from North Carolina's individual comprehensive health insurance market and a clarification of a statement made in the original request.

- **Question 1:** Please provide the most recent 2010 Supplemental Health Care Exhibits ("SHCEs") for each issuer that has at least 1,000 life-years in the North Carolina individual market. Please also provide the 2010 SHCE for American National Life Ins. Co. of Texas.
Response: 2010 Supplemental Health Care Exhibits as reported through the NAIC as of November 4, 2011 are provided in the attached Excel file named "***NC_2010 SHCE"***. Please note that NCDOI's request of September 6, 2011 was based on Supplemental Health Care Exhibits reported through the NACI as of July 12, 2011 with modifications reported by WellPath, Mega and Mid-West as described in DOI's original report. WellPath's revised SHCE is provided in the attached Excel file named ***"Revised WellPath 2010 SHCE"*** and the revisions provided by Mega and Mid-West are provided in the attached Excel file named ***"Mega and Mid-West Revised 2010."***

- **Question 2:** The explanation of the basis for Column (iii-b) of Exhibit D to the NCDOI's application states that credibility adjustments were calculated "using covered lives and average deductible as reported by issuers." 45 CFR §§ 158.230-232 specify that credibility adjustments should be calculated using the number of life-years, which is total number of months of coverage for enrollees during the year, divided by 12. Please recalculate the credibility adjustments using the number of life-years, and please provide the deductible factors used for each issuer. Please also update the MLRs and rebate estimates using the corrected credibility adjustments.

- **<u>Response:</u>** Requested recalculations for Exhibits D – G are included in the attached Excel file named "***MLR Adjustment Request Exhibits 12.01.2011"***. Please note that the number of life years for the Time Insurance Company and John Alden Life Insurance Company mini-med plans were not available, but would not have impacted the rebate calculation. In addition, information for Connecticut General Life Insurance Company is not included in these restated exhibits, because the number of life years in the individual market was below the 1,000 credibility threshold in 2010.

- **<u>Question 3:</u>** Page one of the NCDOI's application refers to issuer responses to NCDOI surveys. Please provide a copy of these surveys and any responses relevant to your application.
<u>Response:</u> The Department's surveys, worksheets and follow-up questions made prior to your request for additional information are included in the attached PDF file named "***NCDOI MLR Waiver – Surveys, Worksheets and Follow Up Questions***". Many of the responses which NCDOI received were marked as confidential/trade secret by the insurers. However, we have included in the application actual responses or aggregations/summaries of responses that were relevant to our application.

- **<u>Question 4:</u>** For the issuers listed in Exhibit D of the Excel attachment to the NCDOI's application, please identify those issuers that have indicated or suggested to the NCDOI that they plan to price their products to meet an 80 percent MLR beginning in 2011 or 2012.
<u>Response:</u> See a summary of responses submitted to a follow-up question relating to Question #4 sent on November 4, 2011 in the attached PDF file named "***Responses - Question #4***".

- **<u>Question 5:</u>** Page 7 of the NCDOI's application states that several issuers have reduced commissions in the North Carolina individual market. Please indicate whether such reductions occurred in 2010 or 2011 for the following issuers: Wellpath, Connecticut General, Golden Rule, American Republic, World, and Aetna.
<u>Response:</u> In response to a follow-up question relating to Question #5 sent on November 4, 2011, Wellpath, Connecticut General, Golden Rule and Aetna all reported that the reductions in commissions occurred <u>ONLY</u> in 2011. Note that American Republic and World were not surveyed since the companies have given notice of their withdrawal from the NC individual comprehensive health insurance market. See a summary of responses submitted to a follow-up question relating to Question #5 sent on November 4, 2011 in the attached PDF file named "***Responses - Question #5***".

- **<u>Question 6:</u>** Page 8 of the NCDOI's application states that "issuers reported needing additional time to modify their business models to best meet the new ACA requirements." Please identify those issuers listed in Exhibit D of the Excel attachment to the NCDOI's application, other than American Republic and World, which have reported needing additional time to modify their business models. Please include any information available to the NCDOI regarding the nature of contemplated modifications.
<u>Response:</u> In response to a follow-up question relating to Question #6 sent on November 4, 2011, the following insurers indicated "needing additional time to modify their business models": Aetna, American Medical Security, Connecticut General, Golden Rule, Humana, John Alden, MEGA, Mid-West National, Time, and Wellpath. See a summary of responses submitted to a follow-up question relating to Question #6 sent on November 4 in the attached PDF file named "***Responses – Question #6***".

- **<u>Question 7:</u>** Page 10 of the NCDOI's application states that "[s]everal issuers reported that they have contracts with brokers/agents that are 'locked in,' giving them less flexibility to make changes needed to meet the new MLR requirements." For the issuers listed in Exhibit D of the Excel attachment to the NCDOI's application, please identify those issuers who have reported having "locked in" contracts with agents/brokers, as well as when these contracts expire.
  <u>Response:</u> See a summary of responses submitted to a follow-up question relating to Question #7 sent on November 4, 2011 in the attached PDF file named "***Responses - Question #7***".

- **<u>Question 8:</u>** The NCDOI's application states that issuers in North Carolina's individual market must meet a minimum future or lifetime loss ratio of 60%. As we read 11 NCAC 16.0201(b), issuers that do not meet this standard must either (1) combine the experience of such policy form(s) with other forms with similar type of coverage for which the pooling of experience is actuarially justified; (2) provide premium credits or refunds; (3) decrease premium rates for one or more subsequent rating periods; or (4) implement an actuarially justified alternative proposal. Please indicate which, if any, of the above actions have been taken by the issuers with loss ratios of less than 60% listed in Exhibit E of the Excel attachment attached the NCDOI's application.
  <u>Response</u>: Title 11 North Carolina Administrative Code (NCAC) 16.0201(b) is applied on a prospective basis based upon the accumulated past experience from inception and the discounted projected future experience. Therefore, compliance is not determined based upon a single calendar year of historical experience (or rolling three year average) as applied in the retrospective MLR rebate calculation. In addition, this regulation applies only to true individual business and not to individual association group business. The majority of the business for issuers with reported 2010 incurred loss ratios of less than 60% is individual association group business which is not subject to this regulation. None of the carriers with reported 2010 incurred loss ratios of less than 60% in Exhibit E have been subject to the specified corrective actions. Corrective actions resulting from T11 NCAC 16.0201(b) have occurred primarily with supplemental accident and health products (non-PPACA major medical plans). The most common corrective actions have been benefit increases and reduced premium rates.

<u>Other Information</u>

- Subsequent to submitting our request for an adjustment to the 80% Medical Loss Ratio in the individual market, the Department was notified that World Insurance Company and American Republic Insurance Company are withdrawing from the North Carolina individual comprehensive health insurance market. These two issuers covered 4,099 lives in North Carolina's individual market in 2010. A copy of the companies' notice (made jointly) is attached in the PDF file named "***Amer Repub and World Withdrawal Notice***".

- With regard to the statement made on page 2 of our request dated September 9, 2010, in the next to last sentence of the first paragraph relating to the our current MLR standards, the Department wishes to clarify that the agreement between NCDOI and Blue Cross Blue Shield of North Carolina does not specify a numeric loss ratio, but rather the two entities have agreed upon how an actuarial methodology is developed and then applied in filings.

This letter and the enclosed documentation, along with the original request, demonstrates that a reasonable likelihood exists that the application of the MLR requirements as set forth in 45 C.F.R. 158 may destabilize the individual health insurance market in North Carolina for the following reasons: 1) Issuers will cease issuing new policies or exit the market; 2) the MLR requirements will erect barriers to entry of new insurers into the individual market; 3) the MLR requirements will reduce consumer choice because of a reduction in the availability of products in the individual market; and 4) the MLR requirements will severely hamper agent involvement in the individual market to the harm of North Carolina citizens and the detriment of the market.

Thank you for you continued consideration of this request.

Very truly yours,

Wayne Goodwin

Wayne Goodwin
Commissioner of Insurance

Attachments